

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

IN RE NEW ENGLAND COMPOUNDING  
PHARMACY, INC. PRODUCTS  
LIABILITY LITIGATION

MDL No. 2419  
Dkt. No. 1:13-md-2419 (RWZ)

THIS DOCUMENT RELATES TO:

All Actions

**THE PLAINTIFFS' STEERING COMMITTEE'S PROPOSED AGENDA  
FOR THE JANUARY 10, 2017 STATUS CONFERENCE**

The Plaintiffs' Steering Committee ("PSC") proposes the following agenda for the January 10, 2017, status conference.<sup>1</sup> The remaining defendants and the plaintiffs' groups identified below have been given an opportunity to comment on this proposed agenda.

**A. REPORT TO THE COURT**

1. Status of payments from Tort Trust  
*Tort Trustee Lynne Riley*
  - a. Status report
2. Status of Specialty Surgery cases  
*14 cases; Gerard Stranch; Chris Tardio*
  - a. PSC's Motion for Sanctions [Dkt. 3232]<sup>2</sup>
  - b. Specialty Surgery's Opposition (forthcoming)
  - c. Specialty Surgery's Motion for Entry of Final Judgments [Dkts. 3245-46] – Briefing in progress
  - d. Specialty Surgery's Motion for Costs [Dkts. 3247-48] – Briefing in progress

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<sup>1</sup> The January 10, 2017 11:30 am discovery hearing has been cancelled [Dkt. 3251].

<sup>2</sup> Date for oral argument to be discussed during the status conference [Dkt. 3251].

- e. Specialty Surgery's Motion to Dismiss *Keyes* case [Dkt. No. 1:13-cv-12998] for Failure to Comply with T.C.A. 29-26-122 – Unopposed (time for response has passed with no opposition filed)
- 3. Status of Box Hill cases  
*8 cases; Michael Coren & Patti Kasputys (Plaintiffs); Greg Kirby (Defendants)*
  - a. Box Hill and Plaintiffs' Notice of Proposed Bellwether Candidate Cases [Dkts. 3202 and 3206]
  - b. Plaintiffs' Motion to Consolidate for Trial [Dkts. 3203 and 3204] and Defendants' Opposition [Dkt. 3240]
  - c. Order on Motion to Compel Non-Party Barbara Wagner [Dkt. 3186] – Ruled on by Judge Boal; documents produced and counsel are coordinating scheduling of continuation of deposition in light of Ms. Wagner having sustained an injury
  - d. Joint Motion to Modify Common Expert Discovery Deadlines [Dkt. 3201] – Ruling requested by parties
  - e. Defendants will appear in person at status conference
- 4. Status of Ocean State cases<sup>3</sup>  
*2 cases: Timothy Wickstrom; Sean Capplis*
  - a. Plaintiffs' Proposed Scheduling Order [Dkt. 3142]
  - b. Ocean State Response [Dkt. 3165]
- 5. Status of directly-filed cases:<sup>4</sup>
  - a. Janet Jenner and Suggs cases  
*Kim Dougherty; Tony Abeln (APAC); Clare Carroll (MAPS); Cynthia Palin (Encino)*
    - i. Plaintiffs' counsel filed motions to withdraw in the cases against APAC (*Kennedy* and *Musselwhite*), MAPS (*Edwards*) and Premier (*Overstreet*) [Dkts. 1:13-cv-13227;

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<sup>3</sup> *Simas v. Barakat et al.*, 13-cv-10943; *Hanson v. Ocean State Pain Mgmt., P.C.*, 13-cv-10685.

<sup>4</sup> All directly filed cases are listed in Notice by the PSC of Cases Filed Directly in the District of Massachusetts [Dkt. 3065].

1:14-cv-13689; 1:13-cv-13228; 1:14-cv-13676; 1:13-cv-13209; and 1:14-cv-13760]. Plaintiffs continue to attempt to locate new counsel and are making progress.

b. Premier cases

*3 cases: John Thornton; Chris Wolk*

- i. *Guzman v. NECC*, 1:12-cv-12208 – stipulation of dismissal filed [Dkt. 3220]
- ii. *Parkell v. UniFirst Corp.*, 1:14-cv-13640 – stipulation transferring case to New Jersey District Court filed [Dkt. 3219]
- iii. *Drain v. UniFirst Corp.*, 1:14-cv-13673 – stipulation transferring case to New Jersey District Court filed [Dkt. 3219]

c. Other directly-filed Andrews Thornton and Higgins Razmara cases

*3 cases, John Thornton; various defense counsel*

- i. *Gibson v. Liberty Industries*, 1:14-cv-11856 – Parties have agreed to transfer to Ohio District Court
- ii. *Patel v. OSMC*, 1:14-cv-13708 – Parties have agreed to dismiss case
- iii. *Moore v. UniFirst*, 1:14-cv-13027 – Parties have agreed to dismiss case

6. Status of St. Thomas settlement

*Gerard Stranch; Chris Tardio & Yvonne Puig*

- a. Status Report<sup>5</sup>
- b. Amended qualified protective orders regarding information from third party payors and Medicaid agencies [Dkts. 3189 and 3190]

7. PSC's Motion for Distribution of Common Benefit Fees and Expenses [Dkt. 3105]

- a. PSC's Revised Proposed Allocation [Dkt. 3129]
- b. No oppositions filed (October 24, 2016 deadline)

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<sup>5</sup> The numerous motions stayed pending the St. Thomas settlement are listed in previous agendas.

- c. PSC's Notice of Filing Proposed Order [Dkt. 3192]
- d. Responses regarding common benefit distribution [Dkts. 3194 and 3198]
- e. PSC response regarding motion for relief and responses regarding common benefit distribution [Dkt. 3205]
- f. Motion for Relief Regarding Delay in Settlement Payments [Dkt. 3195]

**B. OTHER MATTERS**

- 8. Order regarding Motion for Discovery by Glenn Chin [Dkt. 3187]
- 9. PSC's Notice Regarding Discovery Information Stored in Rust/Omni and U.S. Legal Repositories [Dkt. 3207]
- 10. Post-Confirmation Officer's Notice Regarding Further Relief From Preservation Order [Dkt. 3136]
- 11. Preservation Request in Response to Post-Confirmation Officer's Notice Regarding Further Relief From Preservation Order [Dkt. 3164]
- 12. Post-Confirmation Officer's Objection to Preservation Request [Dkt. 3182]

**C. FUTURE STATUS CONFERENCES**

- 10. February 8, 2017, 2:00 p.m.

Dated: January 9, 2017

Respectfully submitted,

**/s/ Kristen A. Johnson**

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Kristen A. Johnson, BBO # 667261

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**CERTIFICATE OF SERVICE**

I, Kristen A. Johnson, hereby certify that I caused a copy of the foregoing to be filed electronically via the Court's electronic filing system. Those attorneys who are registered with the Court's electronic filing system may access these filings through the Court's system, and notice of these filings will be sent to these parties by operation of the Court's electronic filing system.

Dated: January 9, 2017

**/s/ Kristen A. Johnson**

Kristen A. Johnson (BBO# 667261)